D.B.INCOME TAX APPEAL NO.33/2007

CIT, UDAIPUR VS. M/s ASHIRWAD, UDAIPUR

DATE OF ORDER : 6/4/2007

HON'BLE SHRI RAJESH BALIA, J.

HON'BLE SHRI BHANWAROO KHAN, J.

Mr.K.K.Bissa, for the appellant.

Heard learned counsel for the appellant.

The appellant seeks to raise question of law relating to deletion of penalty under Section 271D & 271E in respect of receipt of cash amount by way of loan or deposit and its repayment. Apparently, mere finding that it is a technical breach and that opening balance of the advances and deposits of a particular previous year cannot be subjected to levy of penalty under Section 271D and 271E.

The CIT (Appeals) also found, as a fact, that there was reasonable cause with the assessee for non-compliance of the provisions relating to payment received, and repayment made in terms of Section 269SS & 269T of the Income Tax Act, 1961.

Section 273B clearly postulates that where the non-compliance of Section 269SS & 269T which relates to carrying the transactions otherwise than through Bank, penalty cannot be levied if the assessee shows reasonable cause for non-compliance. The finding as to existence of reasonable cause being a finding of fact and is not vitiated, the other question raised by the Revenue is of academic character.

In that view of the matter, same cannot be said to be substantial question of law arising for consideration in this appeal, inasmuch as answer thereto will not alter the result of appeal.

Accordingly, the appeal fails and hereby dismissed.

(BHANWAROO KHAN), J. (RAJESH BALIA), J.

Pankaj Baweja.